

(2) You may think about whether the accomplice's testimony is supported by other evidence, because then it may be more reliable. However, there is nothing wrong with using an accomplice as a witness. You may convict the defendant based only on an accomplice's testimony if you believe the testimony and it proves the defendant's guilt beyond a reasonable doubt.

(3) When you decide whether you believe an accomplice, consider the following:

(a) Was the accomplice's testimony falsely slanted to make the defendant seem guilty because of the accomplice's own interests, biases, or for some other reason?

(b) Has the accomplice been offered a reward or been promised anything that might lead him to give false testimony?

(c) Has the accomplice been promised that he will not be prosecuted, or promised a lighter sentence or allowed to plead guilty to a less serious charge? If so, could this have influenced his testimony?

(4) In general, you should consider an accomplice's testimony more cautiously than you would that of an ordinary witness. You should be sure you have examined it closely before you base a conviction on it. (CJ2d 5.6)

If the jury had thus been instructed, they would have been warned to consider defendant Stanley's testimony more cautiously than that of an ordinary witness and would have provided guidelines to follow when assessing his credibility.

An accomplice has been defined as a person who knowingly and willingly helps or cooperates with someone else in committing a crime. People v. Allen 201 Mich App 98, 105; 505 NW2d 869 (1993).

Defendant Stanley admitted to his participation in the offenses, admitted he had been released several times from custody, admitted he had not been charged with the instant offense, and admitted he had been charged in the drugstore carjacking and robbery. Defendant's jury could have concluded he was an accomplice, that he aided and abetted defendant in the commission of not only that offense, but the charged offense, and was testifying in such a manner that his own jury would agree he acted under duress. As a result, he offered for

defendant's jury additional consideration of other bad acts: he was forced to participate at gunpoint and afterwards threatened not to speak to the authorities.

The other witnesses, if believed, had testified he was involved with this offense and his actions did not indicate he was operating under duress. Whether he was or not was left to his own jury.

The jury instruction as to witness credibility, CJ12d 3.6, was inadequate with respect to defendant Stanley, because of his unique position as both a witness and a defendant in the trials. Yet the jury was instructed to consider his testimony as if he were any other ordinary witness. If they had been properly instructed, the jury would have been better able to assess not only his credibility, but it would have impacted on the other witness' testimony, casting doubt upon their testimony as well.

Defendant submits the failure of the court to properly instruct the jury resulted in a failure to protect defendant's rights by failing to have them determine for themselves defendant's Stanley's role, where there was evidence to support his participation. As such, defendant suffered a miscarriage of justice. Lukity, supra.

Therefore, defendant submits the trial court abused its discretion in denying defendant's request for the instruction, requiring reversal.

**SUMMARY AND RELIEF SOUGHT**

For the foregoing reasons, Defendant-Appellant respectfully requests this Honorable Court remand the case for a new trial, or grant Defendant any other remedy as this Honorable Court determines.

Respectfully submitted,

  
\_\_\_\_\_

DANIEL RUST

26062 Ivanhoe

Detroit, Michigan 48239

(313) 837-7734

DATED: March 28 , 2005

## CIVIL COVER SHEET FOR PRISONER CASES

Name of 1 <sup>st</sup> Listed Plaintiff <i>Rufus Lango</i>	Name of 1 <sup>st</sup> Listed Defendant <i>Blaine Lafler</i>
Inmate Number: <i>498304</i>	Defendant's County of Residence (If located in Michigan)

## FACILITIES, LISTED ALPHABETICALLY

<input type="checkbox"/> ALGER MAXIMUM CORRECTIONAL FACILITY INDUSTRIAL PARK DRIVE P.O. BOX 500 MUNISING, MI 49862 ALGER COUNTY	<input type="checkbox"/> FLORENCE CRANE CORRECTIONAL FACILITY 38 FOURTH STREET COLDWATER, MI 49038 BRANCH COUNTY	<input type="checkbox"/> MARQUETTE BRANCH PRISON 1990 US HWY 41 SOUTH MARQUETTE, MI 49866 MARQUETTE COUNTY	<input type="checkbox"/> RIVERSIDE CORRECTIONAL FACILITY 777 W. RIVERSIDE DRIVE IONIA, MI 48846 IONIA COUNTY
<input type="checkbox"/> BARAGA MAXIMUM CORRECTIONAL FACILITY 301 WADAGA ROAD BARAGA, MI 49908 BARAGA COUNTY	<input type="checkbox"/> G. ROBERT COTTON CORRECTIONAL FACILITY 3600 N. ELM ROAD JACKSON, MI 49201 JACKSON COUNTY	Case: 2:06-cv-12228 Assigned To: Battani, Marianne O Referral Judge: Capel, Wallace Filed: 05-16-2006 At 07:47 AM HC LANGO VS LAFLER (LE)	
<input type="checkbox"/> BELLAMY CREEK CORRECTIONAL FACILITY 1727 W. BLUEWATER HIGHWAY IONIA, MI 48846 IONIA COUNTY	<input type="checkbox"/> GUS HARRISON CORRECTIONAL FACILITY 2727 E. BEECHER STREET ADRIAN, MI 49221 LENAWEE COUNTY	<input type="checkbox"/> 17801 MOUNTAIN DETROIT, MI 48212 WAYNE COUNTY	<input type="checkbox"/> WAYNE COUNTY
<input type="checkbox"/> BOYER ROAD CORRECTIONAL FACILITY 10274 BOYER ROAD CARSON CITY, MI 48811 MONTCALM COUNTY	<input type="checkbox"/> HANDLON MICHIGAN TRAINING UNIT 1728 BLUEWATER HIGHWAY IONIA, MI 48846 IONIA COUNTY	<input type="checkbox"/> MUSKEGON CORRECTIONAL FACILITY 2400 S. SHERIDAN DRIVE MUSKEGON, MI 49442 MUSKEGON COUNTY	<input type="checkbox"/> SAGINAW CORRECTIONAL FACILITY 9625 PIERCE ROAD FREELAND, MI 48623 SAGINAW COUNTY
<input type="checkbox"/> CARSON CITY CORRECTIONAL FACILITY 10622 BOYER ROAD CARSON CITY, MI 48811 MONTCALM COUNTY	<input type="checkbox"/> HIAWATHA CORRECTIONAL FACILITY 4833 W. INDUSTRIAL PARK DRIVE KINCHELOE, MI 49788-0001 CHIPPEWA COUNTY	<input type="checkbox"/> NEWBERRY CORRECTIONAL FACILITY 3001 NEWBERRY AVENUE NEWBERRY, MI 49868 LUCE COUNTY	<input type="checkbox"/> SOUTHERN MICHIGAN CORRECTIONAL FACILITY 4002 COOPER STREET JACKSON, MI 49201 JACKSON COUNTY
<input type="checkbox"/> CHARLES EGELER RECEPTION AND GUIDANCE CENTER 3855 COOPER STREET JACKSON, MI 49201-7547 JACKSON COUNTY	<input type="checkbox"/> HURON VALLEY CENTER 3511 BEMIS ROAD YPSILANTI, MI 48197 WASHTENAW COUNTY	<input type="checkbox"/> OAKS CORRECTIONAL FACILITY 1500 CABERFAE HIGHWAY EASTLAKE, MI 49626-0038 MANISTEE COUNTY	<input type="checkbox"/> ST. LOUIS CORRECTIONAL FACILITY 8585 N. CROSWELL ROAD ST. LOUIS, MI 48880 GRATIOT COUNTY
<input type="checkbox"/> CHIPPEWA CORRECTIONAL FACILITY 4289 W. M-80 KINCHELOE, MI 49784 CHIPPEWA COUNTY	<input type="checkbox"/> HURON VALLEY CORRECTIONAL FACILITY 3201 BEMIS ROAD YPSILANTI, MI 48197 WASHTENAW COUNTY	<input type="checkbox"/> OJIBWAY CORRECTIONAL FACILITY N5705 OJIBWAY ROAD MAHENSICO, MI 49947-9771 GOGEBIC COUNTY	<input type="checkbox"/> STANDISH MAXIMUM CORRECTIONAL FACILITY 4713 W. M-81 STANDISH, MI 48868 ARENAC COUNTY
<input type="checkbox"/> COOPER STREET CORRECTIONAL FACILITY 3100 COOPER STREET JACKSON, MI 49201 JACKSON COUNTY	<input type="checkbox"/> IONIA MAXIMUM CORRECTIONAL FACILITY 1576 W. BLUEWATER HIGHWAY IONIA, MI 48846 IONIA COUNTY	<input type="checkbox"/> PARNALL CORRECTIONAL FACILITY 1780 E. PARNALL JACKSON, MI 49201 JACKSON COUNTY	<input type="checkbox"/> STRAITS CORRECTIONAL FACILITY 4387 W. M-80 KINCHELOE, MI 49785-0001 CHIPPEWA COUNTY
<input type="checkbox"/> DEERFIELD CORRECTIONAL FACILITY 1755 HARWOOD ROAD IONIA, MI 48846 IONIA COUNTY	<input type="checkbox"/> KINROSS CORRECTIONAL FACILITY 16770 S. WATERTOWER DRIVE KINCHELOE, MI 49788 CHIPPEWA COUNTY	<input type="checkbox"/> PARR HIGHWAY CORRECTIONAL FACILITY 2727 E. BEECHER STREET ADRIAN, MI 49221 LENAWEE COUNTY	<input type="checkbox"/> THUMB CORRECTIONAL FACILITY 3225 JOHN CONLEY DRIVE LAPEER, MI 48446 LAPEER COUNTY
<input type="checkbox"/> EARNEST C. BROOKS CORRECTIONAL FACILITY 2800 S. SHERIDAN DRIVE MUSKEGON HEIGHTS, MI 49444 MUSKEGON COUNTY	<input type="checkbox"/> LAKELAND CORRECTIONAL FACILITY 141 FIRST STREET COLDWATER, MI 49038 BRANCH COUNTY	<input type="checkbox"/> PINE RIVER CORRECTIONAL FACILITY 320 N. HUBBARD ST. LOUIS, MI 48880 GRATIOT COUNTY	<input type="checkbox"/> WAYNE COUNTY JAIL 570 CLINTON STREET DETROIT, MI 48226 WAYNE COUNTY
<input type="checkbox"/> FEDERAL CORRECTIONAL INSTITUTION - MILAN P.O. BOX 1000 MILAN, MI 48160-1090 WASHTENAW COUNTY	<input type="checkbox"/> MACOMB CORRECTIONAL FACILITY 34826 28 MILE ROAD NEW HAVEN, MI 48048 MACOMB COUNTY	<input type="checkbox"/> PUGSLEY CORRECTIONAL FACILITY 7401 EAST WALTON ROAD KINGSLEY, MI 49849 GRAND TRAVERSE COUNTY	<input type="checkbox"/> WEST SHORELINE CORRECTIONAL FACILITY 2500 S. SHERIDAN DRIVE MUSKEGON HEIGHTS, MI 49444 MUSKEGON COUNTY

## OFFICE USE ONLY

PLAINTIFF ADDRESS: (IF NOT ABOVE)	BASIS OF JURISDICTION <input type="checkbox"/> U.S. GOVERNMENT DEFENDANT <input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY	ORIGIN <input checked="" type="checkbox"/> ORIGINAL PROCEEDING <input type="checkbox"/> 2 REMOVED FROM STATE COURT <input type="checkbox"/> 5 TRANSFERRED FROM ANOTHER DISTRICT COURT	FEE STATUS <input checked="" type="checkbox"/> IN FORMA PAUPERIS <input type="checkbox"/> WAIVED <input type="checkbox"/> PD PAID
PLAINTIFF'S COUNTY OF RESIDENCE	NATURE OF SUIT <input type="checkbox"/> 510 MOTION TO VACATE <input checked="" type="checkbox"/> 530 HABEAS CORPUS <input type="checkbox"/> 535 HABEAS/DEATH PENALTY <input type="checkbox"/> 540 MANDAMUS <input type="checkbox"/> 550 CIVIL RIGHTS <input type="checkbox"/> 555 PRISON CONDITIONS	JURY DEMAND CHECK YES ONLY IF DEMANDED IN COMPLAINT <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	CASE OPENING <input checked="" type="checkbox"/> OPEN AS CV <input type="checkbox"/> NO CREDIT REASSIGN TO (MOTION TO VACATE - 2255)

## PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously discontinued or dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case Number: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (*Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.*)

☐ Yes

☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case Number: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes: \_\_\_\_\_